

This letter concerns local taxes. See 86 Ill. Adm. Code 270.115. (This is a GIL.)

June 22, 2007

Dear Xxxxx:

This letter is in response to your letter dated October 17, 2006, in which you request information. We apologize for the delay in responding to your inquiry. The Department issues two types of letter rulings. Private Letter Rulings ("PLRs") are issued by the Department in response to specific taxpayer inquiries concerning the application of a tax statute or rule to a particular fact situation. A PLR is binding on the Department, but only as to the taxpayer who is the subject of the request for ruling and only to the extent the facts recited in the PLR are correct and complete. Persons seeking PLRs must comply with the procedures for PLRs found in the Department's regulations at 2 Ill. Adm. Code 1200.110. The purpose of a General Information Letter ("GIL") is to direct taxpayers to Department regulations or other sources of information regarding the topic about which they have inquired. A GIL is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120. You may access our website at [www.ILTAX.com](http://www.ILTAX.com) to review regulations, letter rulings and other types of information relevant to your inquiry.

The nature of your inquiry and the information you have provided require that we respond with a GIL. In your letter you have stated and made inquiry as follows:

It is my understanding that in the State of Illinois, sales tax is charged for goods from the point where the computer is located and the order taken. Pub 113. If the order is taken in an area where a city sales tax charge is levied, then the city tax is added to the state tax regardless of the location in Illinois where the product if [sic] shipped to.

I want to clarify for a potential sales organization in the State of Illinois, that the above is correct. Specifically: Are we correct in assuming that a central computer, order desk location can take orders to be shipped from several different location jurisdictions in the State of Illinois to users in the State, and pay sales tax for those orders based on the location of the order desk irregardless of the Illinois end user location.

We would appreciate written clarification on this scenario so we can fully comply with the State sales tax laws.

#### **DEPARTMENT'S RESPONSE:**

For general information please see 86 Ill. Adm. Code 270.115 of the Home Rule Municipal Retailers' Occupation Tax for guidance concerning jurisdictional questions. Although 86 Ill. Adm. Code 270.115 deals with municipal home-rule taxes, the principles outlined in this administrative rule apply to all local taxes administered by the Department.

The Department's regulations state that "enough of the selling activity must occur within the home rule municipality to justify concluding that the seller is engaged in business within the home rule municipality with respect to that sale." 86 Ill. Adm. Code 270.115(a)(1). The Department has opined that the seller's acceptance of the customer's purchase order is the "most important single factor" in the occupation of selling.

However, when sales activity takes place in more than one jurisdiction, the facts and circumstances surrounding the sale must be carefully scrutinized to assure that "enough" of the sales activity has occurred in the home rule municipality to justify the conclusion that the sale took place there. This inquiry will ordinarily be fact intensive and require an examination of all of the processes and procedures performed by the seller from the time the customer contacts the seller until the goods are delivered. Significantly, the Department "will assume that the seller has accepted the purchase order at the place of business at which the seller receives such purchase order from the purchaser in the absence of clear proof to the contrary." 86 Ill. Adm. Code 270.115(b)(2). Please note that the Department does not believe that the automated acceptance of a purchase order by a computer would be sufficient by itself to fix the location of the sale to where the computer is located.

The tax rate is fixed by the location of the sale, not the delivery location of the item being sold. The fact that the item being sold is shipped from out-of-State or from another Illinois location is immaterial for purposes of local taxes if the sale occurs in an Illinois jurisdiction imposing a local tax. For these transactions the local tax will be incurred.

If a sale takes place outside the State, but the property being sold is located in the inventory of the retailer in an Illinois jurisdiction that has imposed a local tax (see, for example, Section 270.115(c)(2)), then the location of the property at the time of sale will determine where the seller is engaged in business for the purpose of determining the imposition of applicable local sales taxes.

I hope this information is helpful. If you require additional information, please visit our website at [www.ILTAX.com](http://www.ILTAX.com) or contact the Department's Taxpayer Information Division at (217) 782-3336. If you are not under audit and you wish to obtain a binding PLR regarding your factual situation, please submit a request conforming to the requirements of 2 Ill. Adm. Code 1200.110 (b).

Very truly yours,

Terry D. Charlton  
Senior Counsel, Sales & Excise Taxes

TDC:msk